GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. B. Leela Kumari W/o B. Madhu Kumar Occ: Sr. Assistant, Indira Sagar Left Main Canal Circle, Tuni, East Godavari District, filed under Section 7(2) of the Act 16 of 1993, against the proceedings RC. C4/1424/2009, dated 07.03.2011 of the District Collector, Prakasam - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 74 **Dated: 10-06-2016**

Read the following:

1. Proceedings of the District Collector, Prakasam District No. RC. C4/1424/2009, dated 07.03.2011.
2. Appeal Petition filed by Kum. B. Leela Kumari W/o B. Madhu Kumar Occ: Sr. Assistant Indira Sagar Left Main Canal Circle, Tuni, East Godavari District, R/o Tuni, E.G. District before the M(SW) on dated 28.04.2011.
3. Government Memo No.6455/CV.2/2011, S.W(CV.2) Department, dated 21.06.2011.
4. Order of the Hon'ble High Court of A.P., Hyderabad in W.P. No. 13708/2013, dated 30.04.2013.
5. From the District Collector, Prakasam Lr. Rc. No.C4/423/2013, dated 21.11.2013.
6. Government Memo No.6455/CV.2/2011, S.W(CV.2) Department, dated 18.02.2014.
7. Government Memo No.6455/CV.2/2011, S.W(CV.2) Department, dated 14.10.2014, 24.11.2014 & 28.02.2015.
8. Government Memo No.6455/CV.2/2011, T.W(CV.2) Department, dated 08.04.2015.
9. Written arguments filed by the Counsel for the Appellant before the Government, dated:18.04.2015.

*****

ORDER:

In the reference 1st read above the District Collector, Prakasam has issued orders canceling ST- Yerukula permanent Caste Certificate obtained from the then Tahsildar, Chirala on 2008 by Smt. B. Leela Kumari W/o B. Madhu Kumar, Prakasam District.

2. In the reference 2nd read above, Smt. B. Leela Kumari W/o B. Madhu Kumar, Prakasam District has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, Prakasam. After examining the said Appeal Petition, Government have admitted the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, Prakasam in the reference 3rd read above.

3. Smt. B. Leela Kumari W/o B. Madhu Kumar, Prakasam District has filed 13708/2013, before the Hon'ble High Court, against the said proceedings of the District Collector, Prakasam. In the reference 4th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 30.04.2013 has issued stay orders on the proceedings RC. C4/1424/2009, dated 07.03.2011 of the District Collector, Prakasam until the finalization of the said Appeal Petition and directed the Government to dispose off the Appeal Petition filed by the petitioner within a period of two months from the date of receipt of the order and issued stay orders on the proceedings RC. C4/1424/2009, dated 07.03.2011 of the District Collector, Prakasam until the finalization of the said appeal petition. But due to several administrative difficulties the matter could not be disposed before the said date.

[P.T.O]

However, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority as directed by Hon'ble High Court.

4. In the reference 5th read above, the District Collector, Prakasam has furnished the Parawise remarks and connected records on the said Appeal Petition filed by Smt. B. Leela Kumari W/o B. Madhu Kumar, Prakasam District.

5. The said Appeal Petition has been posted for hearing on 24.02.2014, 25.10.2014, 13.12.2014, 28.02.2015 and finally on 18.04.2015, the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th read above. The Appellant, Counsel for the Appellant was present and argued the case and explained her community status and filed Written Arguments before the Appellate Authority in support of her community claim in the reference 9th read above.

6. The Government after examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 07.03.2011 and after hearing of the arguments and on perusal of the written arguments furnished by the Appellant, the following points on the ST-Yerukula community claim of Smt. B. Leela Kumari have been observed by the Appellate Authority:

I. The Appellant in her written arguments has stated that her natural parents belong to ST-Yerukula Community. Further she has stated that her parents were expired in her childhood days, and she was brought up by one Madhu Kumar and later handed over to her in-laws who also hail from Scheduled Tribe Community, at the age of 13 years. After, the Appellant had her marriage with Sri Madhu Kumar S/o Gresamma, who belongs to ST-Yerukula Community. Finally she has stated that she hails from ST-Yerukula community by birth and by virtue of the social status as on today.

II. The DLSC has observed, based on the report of Tahsildar Chirala on 01.11.2008 that Smt. B.Gresamma W/o Yesobu, Mother-in-law of the Appellant has stated that she worked as Aaya in Chirala Municipality and retired 20 years back and she has reported that Sri Bellamkonda Prakasarao who is father of Appellant is her neighbour at Wood Nagar, Chirala; he belongs to "Kamsali caste", Leela Kumari is not his daughter and she do not know where from he brought the child but he died, handing over the child to her when the child was 4 years of age and it is also observed that Smt. Leela Kumari does not know to which caste she belongs by birth and it is also clear that her Mother-in-law managed to secure an "ST Yerukala" certificate to her using her contacts, virtually without any enquiry.

III. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

The Appellate Authority has observed that a Controversy between the statements of the Appellant and the Mother-in-law (Smt. B.Gresamma) regarding the alleged father i.e. the Appellant has stated that she was brought up by Sri Madhu Kumar up to she attained the age of 13 years whereas Smt. B.Gresamma has stated that when the Appellant is at the age of (4) years, the Appellant's alleged father Sri Bellamkonda Prakasa Rao, who belongs to 'Kamsali Caste' was dead. He is also originally not her father, she does not known that where from he captured the

[Contd…]

child and handed over the Appellant to her when the child was 4 years of age.

7. Further it is also observed that the Govt. gave several opportunities to the Appellant to prove her caste but, the Appellant failed to produce record of evidence that her natural parents belong to ST-Yerukula or any other documents to support her "ST-Yerukula community claim". The Appellant does not know the ethnographic details of Yerukula community such as surnames, clans, types of traditional marriages, communal practices, traditional gods and goddess etc., Further the record produced by the Appellant is mostly school certificates, which is generated based on the declaration given by the parents/guardians, hence those can't be given any weightage.

8. The Government have examined the entire record & material relevant to the instant case and it is opined that the appellant is truly daughter of Sri B. Prakash Rao who belongs to Kamsali caste and there is no evidence on record to rebut the same, further the Appellant obtained caste certificate fraudulently and the appeal is devoid of any merits and there is no infirmity found either in the observations of the learned DLSC or the District Collector, Prakasam.

9. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by Smt. B. Leela Kumari W/o B. Madhu Kumar, Prakasam District, does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide RC. C4/1424/2009, dated 07.03.2011, is hereby upheld and the Appeal Petition filed by Smt. B. Leela Kumari W/o B. Madhu Kumar, is hereby dismissed and the Certificate issued by the then Tahsildar, Chirala deemed to be cancelled.

10. Consequently, the District Collector, Prakasam shall take necessary action in the matter.

11. The records (containing RC. C4/1424/2009, dated 07.03.2011, pages 01 to 180 cf and L.Dis.C4/1357/2008 pages 1 to 64 cf and 1 to 04 nf) received from District Collector, Prakasam through in the reference 5th read above, are returned herewith in original to District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Prakasam (w.e)
(with original records)

Kum. B. Leela Kumari, W/o B. Madhu Kumar,
D.No.17-19/4, Pinnitivari Street,
Dowlaiswaram-535125
East Godavari District.

Sri.Nandigam Krishna Rao, Advocate
Flat 12, Block 15, MIG-II,
APHB, Baghlingampaly, Hyderabad -44.

The Superintending Engineer, I.S.L.M.C. Circle,Tuni-533401,
East Godavari District.

Copy to:

The Director, TCR & TI, Hyderabad.
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER